Nos. 22,753 and 22,811

IN THE

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD,
Petitioner

v.

THE DEUTSCH COMPANY,
ELECTRONIC COMPONENTS DIVISION,
Respondent

ON PETITION FOR ENFORCEMENT AND ON PETITION TO REVIEW AND SET ASIDE AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD

ARNOLD ORDMAN,
General Counsel,
DOMINICK L. MANOLI,
Associate General Counsel,
MARCEL MALLET-PREVOST,
Assistant General Counsel,
PAUL J. SPIELBERG,
Attorney,
National Labor Relations Board.

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JURISDICTION

This case is before the Court upon the petition of the National Labor Relations Board, pursuant to Section 10(e) of the National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 29 U.S.C., Secs. 151, *et seq.*),[1] for enforcement of its order (R. 64-65, 19-35)[2] issued on May 31, 1967, against the Company. The Com-

[1] The pertinent statutory provisions are reprinted in Appendix A, *infra*, p. 18.

[2] References to the pleadings, decision and order of the Board, the Trial Examiner's recommended decision and order, and other papers reproduced as

pany has also filed a petition to review and set aside the Board's order. The Board's Decision and Order are reported at 165 NLRB No. 5. This Court has jurisdiction of the proceedings, the unfair labor practices having occurred in Banning, California, where the Company is engaged in the production and sale of miniature electrical connectors used in the aerospace industry. No question of jurisdiction is presented.

STATEMENT OF THE CASE

I. THE BOARD'S FINDING OF FACT

Briefly, the Board found that the Company violated Section 8(a)(1) of the Act by maintaining and enforcing an unlawful no-solicitation and no-distribution rule, and by improperly assisting its employees to withdraw their support from the Union.[3] The Board also found that the Company violated Section 8(a)(3) by imposing disciplinary suspensions on two employees who breached its invalid no-solicitation and no-distribution rule. The facts on which these findings rest are summarized below.

A. Background

The Company has instituted certain security measures designed to safeguard valuable metals used in production and to qualify the Company for classified work (R. 22; Tr. 17-19, 185-186). Thus, a

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Volume I, pleadings, are designated "R". References to portions of the stenographic transcript reproduced pursuant to the rules of this Court are designated "Tr." "G.C. Exh." refers to the General Counsel's Exhibits, "R. Co. Exh." refers to respondent Company's Exhibits, and "Jt. Exh." refers to those exhibits introduced jointly by the parties. References preceding a semicolon are to the Board's findings; those following are to supporting evidence.

[3]United Steelworkers of America, AFL-CIO.

"security area," enclosed with steel fencing topped with barbed wire, surrounds all the production facilities of the plant. Most employees enter the plant through the east gate which is between the Company's private parking lot and the "security area." Some employees use the north gate which affords entrance to the "security area" from a public street (R. 20; Tr. 67-69, 178-182). Identification badges are required for admittance to the plant and guards check lunch boxes, brief cases and packages carried by persons leaving the plant (R. 22; Tr. 187-192).

The Company was initially granted a security clearance by the Department of Defense on February 27, 1961. This clearance was administratively terminated on June 27, 1966, but was reissued on October 26, 1966. However, during the relevant period of May, June and July of 1966, no work of a classified nature was being performed by the Company (Tr. 12-14, 22-23).

In 1962 the Company began distributing to new employees a booklet entitled "Welcome" which set forth the Company's history and policies, including the following rule about solicitation (R. 21; Jt. Exh. 2):

> COLLECTIONS AND GIFTS:
>
> The solicitation of funds for any purpose, the sale of tickets for all purposes, the operation of lotteries and raffles, and the solicitation of membership in organizations during working hours on Company property are absolutely prohibited.

B. Interference, restraint and coercion

1. *June 1 and 2—threats of discharge*

On June 1, 1966,[4] Company employees began distributing authorization cards on behalf of the Union. On that day, employees Charles Callihan, Mark Grim and Daniel Salcido distributed authorization cards to employees both outside and inside the north gate prior to the commencement of work (R. 23; Tr. 66-69, 109-110). Shortly thereafter, the men decided to split up and Salcido headed for another gate. While crossing a field on Company property he handed an authorization card to a fellow employee. The guard yelled at him, "Hey, don't do that. You'll get fired for doing that" (R. 25; Tr. 110). Salcido then attempted to pass out cards *outside* the east gate, but the guard directed him to move further down the road (R. 25; Tr. 110-111). On June 2, before work began, Callihan alone was distributing cards outside the east gate when a guard said to him that he "could get in trouble doing that" (R. 23; Tr. 69-71).

2. *June 3—Interrogation and warnings of discharge*

On June 3, before work began, Callihan and Grim distributed cards inside the east gate. Jan Winterbourne, assistant personnel manager and security officer approached, told the men they could get into trouble for this activity and suggested that they pass out the cards on the other side of the gate. When Callihan said that they would remain where they were, Winterbourne handed him the following warning notice (R. 23; Tr. 71-73, 199-202, G.C. Exh. 3):

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[4] All dates hereafter refer to 1966.

> It is forbidden to hand out Union literature within the Deutsch plant during working hours or rest periods. This decision is based upon the National Labor Relations Board Rules and Regulations. Continued infraction will lead to dismissal.

Winterbourne attempted to hand a copy to Grim but Grim refused to accept it (R. 23; Tr. 201).[5]

That same morning, before work commenced, employees Salcido, Pacheco and Carrillo distributed cards *outside* the north gate. George Stanley, the Company's personnel manager, approached them, asked if they knew what they were doing, and gave each of them a warning notice which read as follows (R. 25; Tr. 111-113, 130-133, 146-149, G.C. Exh. 4):

> It is forbidden to distribute Union literature within the Deutsch plant. This decision is supported by the Rules and Regulations of the National Labor Relations Board.
>
> The solicitation of membership in organizations during working hours is expressly prohibited on page 15 of the Deutsch Indoctrination Manual given to employees when they are hired. Continued infraction will lead to dismissal.

Stanley then warned them not to bring the union cards inside the plant; the men placed the cards in Pacheco's truck before clocking in (R. 29; Tr. 113, 133, 149-150).[6]

Soon after Callihan received the warning notice from Winterbourne, he was called into an office and introduced to personnel

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[5] A similar notice had been posted on the plant bulletin board (R. 28; Tr. 83-84, 117-118).

[6] The warning notices to Carillo and Pacheco were subsequently withdrawn (R. 25; Tr. 126-127, 138-140, 162-164).

manager Stanley. Stanley told Callihan that it was "against the Company policy to go to work and hand out any literature or any solicitation of any kind and distribution of any kind on Deutsch property" (R. 26; Tr. 219-220). Stanley then handed Callihan a warning notice similar to the ones given to Salcido, Carrillo and Pacheco. Callihan showed Stanley the notice he had been given earlier and refused to sign the second warning notice when asked to do so by Stanley. Stanley then asked Callihan what his intentions were and Callihan said that he "would keep passing out cards until I run out of cards or get fired." Stanley finally responded, "Well, if you're here doing this Monday morning, you won't be around no more" (R. 26; Tr. 76-77).

That morning Salcido, too, was called into an office for an interview with Stanley. After retrieving the warning notice he had given Salcido earlier in the day, Stanley asked Salcido whether that was the first day he had passed out union literature. Salcido said no. Stanley asked, "Was it yesterday?" Salcido again said no, that he had passed out Union literature on June 1. Salcido then refused to sign a warning slip, and told Stanley that he had not passed out Union literature inside the gate. Stanley pointed to the union button Salcido was wearing and said "you tell the people that gave you that button that we're not fooling. We don't care about the National Labor Relations Board. If you're out there Monday morning we're going to fire you. It'll take at least three months before we get into court, and what will you be doing during that time? You think it over" (R. 27; Tr. 113-115).

3. *July 8—disciplinary layoffs*

On Friday, July 8, Callihan and Salcido handed out authorization cards in the Company lunchroom during their respective lunch periods (R. 29; Tr. 79-80, 119-120). Shortly after lunch, Callihan and Salcido were separately summoned to the personnel office where Ken Moyer, the new personnel manager, gave them disciplinary layoffs until the following Wednesday for distributing cards in the lunchroom (R. 29; Tr. 80-83, 120-121, 205-208, 225-226, 250-252).

4. *July 14—the Company assists employees to withdraw Union support*

On July 14 the Company sent a letter to its employees accusing the Union of "bamboozl[ing]" employees into soliciting on its behalf, and also accusing these solicitors of "forc[ing] Union authorization cards upon the employees in the lunchrooms." (R. 29-30; Tr. 61-63, G.C. Exh. 2). Accompanying the letter was a stamped postcard addressed to the National Labor Relations Board which advised the Board that the signer had executed a Steelworkers authorization card "because of misinformation or duress" and concluded: "I hereby revoke my authorization for all purposes." (R. 29; G.C. Exh. 2a). The letter also said (R. 30; G.C. Exh. 2):

> If you have changed your mind, been misinformed, coerced, threatened, intimidated into signing an authorization card OR if you think someone may have sent in a card with your name on it, you can revoke that card by mailing the enclosed postcard.

II. THE BOARD'S CONCLUSIONS AND ORDER

On the basis of the foregoing facts, the Board found that the Company maintained and enforced unlawfully broad limitations on solicitation and on distribution of union literature by posting rules prohibiting such activities in non-work areas and on non-work time; by issuing warning notices to employees who disobeyed these rules; and by threatening such employees with discipline or discharge—all in violation of Section 8(a)(1) of the Act. The Board also found that the Company violated Section 8(a)(1) by unlawfully assisting employees to revoke their union authorization cards. Finally, the Board found that the Company violated Section 8(a)(3) by laying off employees Salcido and Callihan because they engaged in protected activity which was prohibited by the Company's unlawful rules (R. 13-14).

The Board's order directs the Company to cease and desist from the unfair labor practices found, and from in any like or related manner interfering with, restraining or coercing its employees in the exercise of their Section 7 rights. Affirmatively, the Company is required to make Salcido and Callihan whole for any loss of earnings they may have suffered as a result of the unfair labor practices, to withdraw from personnel files of employees warning notices or other disciplinary notations attributable to the Company's unlawful rules, and to post the appropriate notices (R. 14-15).

ARGUMENT

I. SUBSTANTIAL EVIDENCE ON THE RECORD AS A WHOLE SUPPORTS THE BOARD'S FINDINGS THAT THE COMPANY VIOLATED SECTION 8(a)(1) AND (3) BY MAINTAINING AND ENFORCING AN UNLAWFUL NO-SOLICITATION AND NO-DISTRIBUTION RULE

There is no dispute that as soon as the Union's organizing campaign began, the Company invoked a rule forbidding employees to solicit for the Union or to distribute campaign material anywhere on the plant premises during rest periods, lunch breaks, prior to work or at any other time. Nor is it disputed that the Company enforced these restrictions by threatening employees with discipline or discharge for disobeying them; by issuing warning notices to employees for distributing union literature just inside the plant gates before the start of work; by interrogating employees about whether they had or would violate the restrictions; and by imposing disciplinary lay-offs on two employees who distributed union cards in the plant lunch room during their respective lunch breaks. If, as we show, the Company's rule imposed unjustifiable restraints upon its employees' organizational activities, the Board properly found that its threats and warnings violated Section 8(a)(1) and that its suspension of Callihan and Salcido for passing out cards in the lunchroom violated Section 8(a)(3) of the Act.[7]

It is well established that an employer's prohibition of solicitation or distribution of literature on behalf of a union during nonworking time in nonwork plant areas is presumptively invalid. The Board's policy on this subject was approved by the Supreme Court

[7] E.g., *N.L.R.B. v. Miller-Charles & Co.*, 341 F.2d 870, 874 (C.A. 2); *N.L.R.B. v. Southwire Co.*, 352 F.2d 346, 348 (C.A. 5); *N.L.R.B. v. Willow Maintenance Corp.*, 332 F.2d 367, 368 (C.A. 2).

in *Republic Aviation Corp. v. N.L.R.B.*, 344 U.S. 793, 803, n. 10, quoting from *Peyton Packing Co.*, 49 NLRB 828, 843-844, enforced, 142 F.2d 1009, 1010 (C.A. 5), cert. denied, 323 U.S. 730, as follows:

> The Act, of course, does not prevent an employer from making and enforcing reasonable rules covering the conduct of employees on company time. Working time is for work. It is therefore within the province of an employer to promulgate and enforce a rule prohibiting union solicitation during working hours. Such a rule must be presumed to be valid in the absence of evidence that it was adopted for a discriminatory purpose. It is no less true that time outside working hours, whether before or after work, or during luncheon or rest periods, is an employee's time to use as he wishes without unreasonable restraint, although the employee is on company property. It is therefore not within the province of an employer to promulgate and enforce a rule prohibiting union solicitation by an employee outside of working hours, although on company property. *Such a rule must be presumed to be an unreasonable impediment to self-organization and therefore discriminatory in the absence of evidence that special circumstances make the rule necessary in order to maintain production or discipline* (emphasis supplied).

Accord: *N.L.R.B. v. Essex Wire Corp.*, 245 F.2d 589, 593 (C.A. 9); *Republic Aluminum Co. v. N.L.R.B.*, __ F.2d __ (C.A. 5) (*en banc*), 68 LRRM 2090 (No. 22,716, April 25, 1968), vacating 374 F.2d 183; *Campbell Soup Co. v. N.L.R.B.*, 380 F.2d 372, 373 (C.A. 5); *N.L.R.B. v. United Aircraft Corp.*, 324 F.2d 128, 130-131 (C.A. 2).

At the hearing, the Company contended that its total ban on union activity at the plant was justified by "security" needs arising

from its use of valuable metals and its occasional handling of classified work.[8] In explanation, Supervisor Winterbourne testified that the distribution of union literature inside the gate might cause congestion and thereby interfere with the guard's checking of badges. However, traffic averaged only ten employees a minute at the beginning of the shift, with no more than six approaching the gate at the same time (R. 24; Tr. 270, 237, 241; R. Exh. 2(a)-2(i)). This small volume of traffic was hardly calculated to cause disorder at the gates even if the solicitors had stationed themselves immediately inside. And, had congestion developed, the solicitors could have been relocated a little further from the gate. Significantly, neither the guards nor Company officials ever indicated to the solicitors that fear of congestion was behind the broad ban on solicitation and distribution. On the other hand, Company representatives several times interfered with solicitors even though they were outside the gates where no problem of congestion could arise. Under these circumstances, the Board properly found that the Company had failed to establish that its ban against the distribution of union cards inside the gates was "imposed because of traffic situation at the gate," and that in any event problems created by such activity "would not justify the broad prohibition" the Company sought to maintain (R. 24).

The Company's attempt to justify its interference with employees who sought to pass out union cards in the lunchrooms has even less substance. According to the Company, it feared that if cards

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[8] As noted in the Statement, the Company was not engaged in classified production at the time of the events herein.

were distributed in the plant it might inadvertently commit an unfair labor practice when its gate guards discovered them in employees' brief cases and lunch boxes. But, as the Board said, "An inadvertent discovery of an authorization card in the possession of an employee would not be considered an unfair labor practice, and the prohibition against bringing cards into the plant and distributing them in nonwork areas during nonworking time is not justified as a means of avoiding the inadvertent discovery of the cards" (R. 29).

The Company also argued before the Board that its rule was a permissible limitation on organizational activities at the plant because other avenues of communication with employees were available to the Union. However, the availability of alternative channels of communication is a relevant consideration only where *nonemployees* seek to solicit or distribute union literature on Company property. While an employer may prevent such activity on his property if other methods are available, "[n]o restriction may be placed on the employees' right to discuss self-organization among themselves, unless the employer can demonstrate that a restriction is necessary to maintain production or discipline." *N.L.R.B. v. Babcock & Wilcox Co.*, 351 U.S. 105, 112-113. Earlier, in *Republic Aviation, supra,* 324 U.S. at 798-799, the Supreme Court found similar rules unlawful even though in neither of the two cases decided could it "properly be said that there was evidence or a finding that the plant's physical location made solicitation away from company property ineffective to reach prospective union members." Moreover, *Republic Aluminum Co. v. N.L.R.B.*, 374 F.2d 183 (C.A. 5), heavily relied upon by the Company, has recently been reversed by the Fifth Cir-

cuit, sitting *en banc, supra,* p. 10, 68 LRRM 2090. Under circumstances similar to those here, the Fifth Circuit held that the General Counsel need not show that alternative methods of solicitation were lacking. 68 LRRM at 2092. Furthermore, of the other four circuits faced with this specific contention, three have rejected it. *United Steelworkers of America, AFL-CIO (Luxaire, Inc.) v. N.L.R.B.,* __ F.2d __ (C.A. D.C., No. 21,043, decided March 19, 1968, 67 LRRM 2813, 2814, 2815); *N.L.R.B. v. United Aircraft Corp.,* 324 F.2d 128, 130 (C.A. 2), cert. denied, 376 U.S. 951; *Time-O-Matic, Inc. v. N.L.R.B.,* 264 F.2d 96, 101 (C.A. 7); *contra, N.L.R.B. v. Rockwell Mfg. Co.,* 271 F.2d 109 (C.A. 3).[9]

In sum, the Company has failed to show that specific circumstances existed which justified its presumptively invalid total prohibition of distribution and solicitation on behalf of the Union at the plant, or that any other reasons call for a reversal of the Board's conclusion that the Company's ban violated Section 8(a)(1) of the Act.

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[9] *Rockwell* turns on the Third Circuit's conclusion that the Supreme Court in *N.L.R.B. v. United Steelworkers Union of America, CIO (Nutone),* 357 U.S. 357, made the existence of adequate alternative means of solicitation a relevant consideration in appraising any no-solicitation rule, although its earlier decisions in this area, as shown, had expressly held otherwise. In rejecting this reading of *Nutone,* the Fifth Circuit pointed out (*Republic Aluminum, supra,* 68 LRRM at 2092) that *Nutone* "does not purport to overrule or modify *Republic Aviation*" and expressed its reluctance to "read into [*Republic Aviation*] such a serious modification" of settled law.

II. SUBSTANTIAL EVIDENCE ON THE RECORD AS A WHOLE SUPPORTS THE BOARD'S FINDING THAT THE COMPANY VIOLATED SECTION 8(a)(1) BY INDUCING EMPLOYEES TO REVOKE THEIR AUTHORIZATION CARDS

As the Statement shows, on July 14 the Company sent its employees a letter suggesting that coercion and deception were the Union's organizational stock in trade, and advising that employees who had been "misinformed, coerced, threatened, [or] intimidated into signing an authorization card," could revoke it by mailing to the Board "the enclosed postcard." The postcard, stamped and addressed to the Board's Twenty-First Region in Los Angeles, informed the Board that the signer "revoke[d his] authorization for all purposes." The Board found nothing unlawful in the letter but properly held that the distribution of the revocation forms, without any request from the employees, violated Section 8(a)(1) of the Act.

It is an unfair labor practice under Section 8(a)(1) of the Act for an employer "to interfere with, restrain, or coerce" employees in their choice of a bargaining agent. The language and legislative history of Section 8(a)(1) show that Congress intended the terms "interfere," "restrain," and "coerce" to have separate and distinct meanings.[10] In banning "interference" Congress clearly meant to proscribe any employer activity which might limit employees in the exercise of their statutory rights.[11] "The test is whether the em-

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[10] See Senate Committee on Education and Labor, Hearings on S. 2958, 74th Cong., 1st Sess. (1935) pp. 713-714, 558, 305; H.R. No. 245 on H.R. 3020, 80th Cong., 1st Sess. (1947) p. 28.

[11] Looking back after four years of experience under the Wagner Act, at a time when amendments to Section 8(a)(1) were urged but not adopted, Senator Wagner made this observation on the need for continuing the prohibition against interference:

ployer engaged in conduct which, it may reasonably be said, tends to interfere with the free exercise of employee rights under the Act." *N.L.R.B. v. Ford,* 170 F.2d 735, 738 (C.A. 6). Accord: *Hendrix Mfg. Co. v. N.L.R.B.,* 321 F.2d 100, 105 (C.A. 5); *Melville Confections, Inc. v. N.L.R.B.,* 327 F.2d 689, 692 (C.A. 7), cert. denied, 377 U.S. 933; *Local 542, Operating Engineers v. N.L.R.B.,* 328 F.2d 850, 850-852 (C.A. 3); *N.L.R.B. v. Illinois Tool Works,* 153 F.2d 811, 814 (C.A. 7); *N.L.R.B. v. Syracuse Color Press,* 209 F.2d 596, 599 (C.A. 2), cert. denied, 347 U.S. 966. See also *N.L.R.B. v. Link-Belt Co.,* 311 U.S. 854; *N.L.R.B. v. Burnup and Sims, Inc.,* 379 U.S. 21.

It is a recognized form of unlawful interference "for an employer to . . . induce employees to sign . . . any form of union repudiating document . . ." *N.L.R.B. v. Birmingham Publishing Co.,* 262 F.2d 2, 7 (C.A. 5); *N.L.R.B. v. V. C. Britton,* 352 F.2d 797, 798-799 (C.A. 9); *N.L.R.B. v. Elias Bros., Big Boy Inc.,* 327 F.2d 421, 422 (C.A. 6); *Movie Star, Inc.,* 145 NLRB 319, 320, enforced, 361 F.2d 346 (C.A. 5); *Murray Envelope Corp.,* 130 NLRB 1574, 1577-1579; *Lakeland Cement Co.,* 130 NLRB 1365, 1366; *F. C. Huyck & Sons,* 125 NLRB 271, 272-273. This is not to say, of course, that an employer may not freely communicate its antiunion opinions to employees, including those who have already given a union their support. Nor does an employer intrude upon protected rights where it furnishes minimal assistance to employees who have

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The ban against "interference" has been of central importance in protecting the right to organize * * * since it embraces a multitude of activities which would not be reached by specific prohibitions written into law, and would not be included within the range of such narrower concepts as "restraint" or "coercion." 84th Cong., Rec., 76th Cong., 1st Sess. (1939) A.2053.

independently decided to withdraw their support and approach the employer for help. E.g., *N.L.R.B. v. Brookside Industries,* 308 F.2d 224, 226 (C.A. 4). Here, however, no claim is made that any employees had approached the Company to complain of union misconduct or to ask assistance in recovering their authorization cards. Thus, the Board could properly conclude that the Company's sole motive for sending employees the revocation cards was to induce and assist them to repudiate the Union and that this conduct constituted interference within the meaning of Section 8(a)(1) of the Act.

Before the Board, the Company argued that its conduct was protected by Section 8(c) of the Act. That section, however, protects only the "expressing of views, arguments or opinion,"—not interference with employees' affairs through "solicitation calculated to undermine the Union." *N.L.R.B. v. Clearfield Cheese Co., Inc.,* 213 F.2d 70, 73 (C.A. 3). See also, *N.L.R.B. v. Miller,* 341 F.2d 870, 873 (C.A. 2); *N.L.R.B. v. Raymond Pearson,* 243 F.2d 456, 457 (C.A. 5); *Irving Air Chute Co. v. N.L.R.B.,* 350 F.2d 176, 180 (C.A. 2). The Company's letter attacking the integrity of the Union was licensed as an expression of opinion, e.g. *N.L.R.B. v. TRW-Semiconductors, Inc.,* 385 F.2d 753 (C.A. 9), but its action in furnishing employees an instrument with which to nullify their selection of the Union was plainly something more.

CONCLUSION

For the reasons stated above, we respectfully submit that a decree should issue enforcing the Board's order in full and denying the Company's petition for review.

ARNOLD ORDMAN,
General Counsel,
DOMINICK L. MANOLI,
Associate General Counsel,
MARCEL MALLET-PREVOST,
Assistant General Counsel,
PAUL J. SPIELBERG,
Attorney,

National Labor Relations Board.

June, 1968.

CERTIFICATE

The undersigned certifies that he has examined the provisions of Rules 18 and 19 of this Court, and in his opinion the tendered brief conforms to all requirements.

Marcel Mallet-Prevost
Assistant General Counsel
National Labor Relations Board

APPENDIX A

The relevant provisions of the National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 29 U.S.C., Secs. 151, *et. seq.*), are as follows:

RIGHTS OF EMPLOYEES

Sec. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3).

UNFAIR LABOR PRACTICES

Sec. 8. (a) It shall be an unfair labor practice for an employer–

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7;

* * *

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization;

* * *

APPENDIX B

Pursuant to Rule 18(f) of the rules of the Court

GENERAL COUNSEL'S EXHIBITS

No.	Identified	Received
1(a) through 1(l)	6	6
2 and 2(a)	62	63
3	63	73
4	64	149

RESPONDENT'S EXHIBITS

No.	Identified	Received
1	177	178
2(a) through 2(h)	203	204
2(i)	245	246

JOINT EXHIBITS

No.	Identified	Received
1	58	58
2	58	59